

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:97-CR-82

v.

HON. ROBERT HOLMES BELL
DARRICK FLOWERS,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #1040). Based on a review of defendant's motion, the Sentence Modification Report, responses by defense counsel and counsel for the government, the Court has determined that the motion should be denied for the following reason(s):

At the time of sentencing on May 1, 1998, the Court found that defendant was involved in at least 1.5 kilograms of cocaine base. The presentence report indicated defendant's criminal activity involved 50 kilograms of cocaine base. At sentencing, the Court found that the probation officer's determination of quantity was supported by the record. Amendment 706 of the Sentencing Guidelines lowered the base offense level for 1.5 kilograms of cocaine base to level 36. Presumably, had Amendment 706 been in affect

at the time of sentencing, the Court would have found defendant responsible for at least 4.5 kilograms or more of cocaine base, found at level 38. Consequently, Amendment 706 does not result in lowering the defendant's applicable guideline range.

Accordingly, defendant's motion is hereby **DENIED**.

Date: March 31, 2011

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE